

REMARKS

Reconsideration of this application is respectfully requested.

This application has been reviewed in light of the Office Action dated November 24, 2003. Claims 1-5 and 8-26 are currently pending in the application. It is gratefully acknowledged that the Examiner has reopened prosecution and has withdrawn the rejections of the previous Final Office Action.

In the present Office Action, the Examiner has rejected Claims 1-3, 8-10, 12-13, 15-16, 19-20, and 22-26 under 35 U.S.C. § 103(a) as being unpatentable over *Smith* (U.S. 5,710,807) in view of *Renton* (U.S. 5,233,642), Claims 4-5 and 17-18 under 35 U.S.C. § 103(a) as being unpatentable over *Smith* in view of *Renton*, and further in view of *Smolik* (U.S. 6,381,455), and Claims 11, 14, and 21 under 35 U.S.C. § 103(a) as being unpatentable over *Smith* in view of *Renton*, and further view of *Cauffman et al.* (U.S. 5,325,290).

As Claims 1, 8, 11, 16, 21, 23 and 24 are the rejected independent claims of the application our analysis will focus primarily upon them.

Each independent claim, more specifically, Claims 1, 8, 11, 16, 21, 23 and 24, recites that a service suspension period is an interruption of service by the system. In all the rejections, the Examiner cites *Smith* as allegedly disclosing this recitation. However, it is respectfully submitted that the Examiner is incorrect.

Smith is directed to a method for recording non-communication intervals during a communication call over a wired phone system. As such, *Smith* defines the non-communication intervals, which are determined if a voice signal is not received for a predetermined period of time, as hold periods, which are not interruptions caused by the system, but are merely periods when users do not speak, e.g., are on hold. Therefore, it is respectfully submitted that *Smith* does not

disclose a service suspension period is an interruption of service by the system, as recited in all the rejected independent claims.

Further, because *Smith* is directed to a wired telephone system, not a wireless (cellular) communication system, there will be no service suspension, such as a dropped call, caused by the system. Therefore, the non-communication state of *Smith* is not analogous to a service suspension period as defined in the present invention.

With regards to independent Claims 1 and 16, which were rejected under 35 U.S.C. § 103(a) as being unpatentable over *Smith* in view of *Renton*, the Examiner asserts that *Smith* teaches all the recitations of Claims 1 and 16, except for a billing service in an electronic switch in a cellular network, which the Examiner asserts is disclosed in *Renton*. However, it is respectfully submitted that the Examiner is incorrect.

Claim 1 clearly recites the steps of: *setting a time when a service initiation request or a service resumption request is generated as a service start time and initiating a call; setting a service suspension request time as a service end time upon generation of a service suspension request by the system during the service and suspending the service; sending billing data including the service start time and the service end time in the service suspended state, and determining whether a service resumption request is generated; and ending the service when a service termination request is generated in the service suspended state.* It is respectfully submitted that none of the sections cited by the Examiner, nor any other sections of *Smith* teach these setting steps. Further, this deficiency is not cured by *Renton* either.

Additionally, Claim 16 clearly recites the steps of: *setting a service initiation request time upon request for call initiation and initiating a call; setting a service suspension request time as a service suspension start time upon request for service suspension and suspending the service; setting a service resumption request time as a service suspension end time upon request for service resumption in the service suspended state, calculating a service suspended time from the service suspension start time and the service suspension end time, adding the calculated service suspended*

period to a previous service suspended period, and resuming the service; setting a service termination request time as a service end time upon request for service termination in the service suspended state, calculating a service suspended time from the service suspension start time and the service end time, adding the calculated service suspended period to a previous service suspended period, and resuming the service; and sending billing data including the service start time, the service end time, and a final accumulated service suspended time to a billing processor, and ending the service. As with Claim 1, it is respectfully submitted that none of the sections cited by the Examiner, nor any other sections of *Smith* teach these steps. Further, it is respectfully submitted that this deficiency is not cured by *Renton*.

Claims 23 and 24 were also rejected under 35 U.S.C. § 103(a) as being unpatentable over *Smith* in view of *Renton*. Further, the Examiner uses the same arguments as used for Claims 1 and 16 for the rejection of Claims 23 and 24. However, it is respectfully submitted that Claims 23 and 24 do not recite similar claim limitations. Claims 23 and 24 read as follows:

23. A billing method in an electronic switch in a cellular network system, comprising the steps of:

counting the number of service suspension occurrences generated during a service, constructing billing data including the count value, and sending the billing data to a billing processor, via a call processor; and

producing a total service suspended period by multiplying the number of service suspension occurrences by an average service suspended period, subtracting the total service suspended period from an overall service period, and billing a subscriber for a resulting normal service period, wherein service suspension occurrences are interruptions of service by the system.

24. A billing method in an electronic switch in a cellular network system, comprising the steps of:

calculating a service suspended period during a service in progress; and

billing a subscriber for a normal service period resulting from subtracting the calculated service time period from an overall service period,

wherein the service suspended period is an interruption of service by the system.

Because Claims 23 and 24 do not recite even similar recitations as those in Claims 1 and 16, it is respectfully submitted that the Examiner has failed to make a proper rejection of Claims 23 and 24. Further, it is respectfully submitted that that Claims 23 and 24 are patentably distinct from the combination of *Smith* in view of *Renton*.

Accordingly, for at least the reasons stated above, it is respectfully submitted that the Examiner is incorrect in rejecting Claims 1, 8, 11, 16, 21, 23 and 24, and it is respectfully requested that the rejections to Claims 1, 8, 11, 16, 21, 23 and 24 be withdrawn. Further, because the Examiner has failed to make a proper rejection for all pending claims, namely, Claims 23 and 24, it is respectfully requested that the Examiner withdraw the current Office Action and issue a new corrected Office Action, which examines all pending claims.

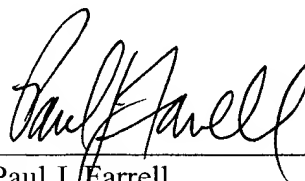
Accordingly, it is respectfully submitted that independent Claims 1, 8, 11, 16, 21, 23, and 24 are in condition for allowance. Further, with independent Claims 1, 8, 11, 16, 21, 23, and 24 in condition for allowance, then at least because of their dependence upon these claims, respectively, it is respectfully submitted that dependent Claims 2-5, 9-10, 12-15, 17-20, 22, and 25-26 will also be in condition for allowance.

Although submitted above as being allowable as being dependent upon independent Claims 1 and 6, respectively, it is respectfully submitted that dependent Claims 4-5 and 17-18 are also allowable as *Smolik* is not prior art in the present application. More specifically, the foreign priority date of the present application, August 1, 1998, is earlier than the filing date of *Smolik*, October 15, 1998.

In view of the preceding remarks, it is respectfully submitted that all pending claims, namely Claims 1-5 and 8-26, are in condition for allowance. Should the Examiner believe that a

telephone conference or personal interview would facilitate resolution of any remaining matters, the Examiner may contact Applicant's attorney at the number given below.

Respectfully submitted,



Paul J. Farrell
Reg. No. 33,494
Attorney for Applicant

DILWORTH & BARRESE, LLP
333 Earle Ovington Blvd.
Uniondale, New York 11553
Tel: (516) 228-8484
Fax: (516) 228-8516

PJF/DMO/lah